

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

OMNIPPOINT HOLDINGS, INC.

Plaintiff,

v.

THE CITY OF LOWELL, THE  
CITY OF LOWELL ZONING  
BOARD OF APPEALS and ALAN  
KAZANJIAN, VESNA NUON, DONNA  
MCMAHON, DAN SQUEGLIA and  
JACK FLYNN, in their capacities as  
members of the City of Lowell  
Zoning Board of Appeals

Defendants

Civil Action No. 05-102832-MLW

**JUDGMENT AND ORDER**

Pursuant to Section 704 of the Telecommunications Act of 1996, codified at 47 U.S.C. § 332(c)(7) (the "TCA"), the parties' Agreement for Judgment filed with this Court, the documents and information submitted in this action, and based on applicable law, the Court finds and orders as follows:

1. That Final Judgment hereby enters in favor of the Plaintiff Omnipoint Holdings, Inc. ("Omnipoint") on Count I of the Complaint, which asserts that the denial of Omnipoint's application for a special permit (the "Application") violates the TCA in that it is not supported by substantial evidence contained in a written record.

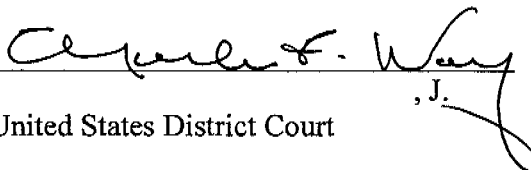
2. That, under Count I of Omnipoint's Complaint, the decision of the defendant the City of Lowell's Zoning Board of Appeals (the "Board") on Omnipoint's Application, dated January 11, 2005 ("the "Decision") and filed with the Lowell City Clerk

on January 13, 2005 regarding Omnipoint's proposed wireless communications facility ("WCF") to be located at 204 Liberty Street, Lowell, MA (the "Site") shall be and hereby is (a) vacated to the extent it denied a request for a special permit for Omnipoint's WCF, and (b) amended and modified to grant a special permit for Omnipoint's WCF in accordance with the plans filed with the Board as part of Omnipoint's Application.

3. This Final Judgment shall operate as grant of the special permit. Further, pursuant to the parties' Agreement for Judgment, it is ordered that this Judgment and Order shall be entered forthwith and that the Defendants need take no further actions, conduct further meetings, hold hearings, or issue any further decisions.

4. Each party shall bear their own costs and fees.

So ordered:

  
United States District Court

Dated: May 5, 2005